long as the date cycle, the kind of the disk as a DVD+RW, as recited in independent claim 1, and similarly recited in independent claim 2.

Kumon teaches a method and system to discriminate the class of a disk between an optical disk 201 that is a DVD with a memory of 2.6 GB and a DVD that has a memory of 4.7 GB (Abstract). In Kumon, a period of the wobble signal is counted by using a reference clock signal generated by the reference clock generating means such as a crystal oscillator, and according to the count value thereof, DVD 2.6 GB or DVD 4.7 GB is determined. The reference signal in Kumon that is to be counted is not the reproduced signal that is changed according to the rotation of the disks, it is necessary for implementing the determination of DVD 2.6 GB or DVD 4.7 to specify the rotation number of the disk and the point being reproduced in the disk. Furthermore, Kumon specifically teaches that "when an optical disk 201 is a DVD 2.6 GB, the count value of the counter becomes about 186 count and when the disk is a DVD 4.7 GB, the count value becomes about 124 counts" (Abstract, lines 14-17). Thus, Kumon clearly identifies the DVD+RW, which is the DVD with the greatest space at 4.7 GB, as being the one that has a count value of 124 counts. The count as defined by Kumon is the number of counts of a counter that measures the binarized component and the cycle of the wobbles, as shown in Kumon in lines 9-11 of the Abstract. Thus, the disk with a DVD of 4.7 GB has a count value of about 124 counts, which is the number of cycles that are longer than the recording clock cycle of the reference clock. Accordingly, although Kumon's count value for the DVD 2.6 GB, which is the DVD-RW, is 186 counts and similar to the claimed DVD-RW wobble signal, Kumon's count for the DVD 4.7 GB, which is Kumon's DVD+RW, is 124 counts, not 32 counts. Thus, Kumon does not

disclose or suggest that the cycle of the wobble signal is 32 times when the disk is a DVD+RW, as recited in independent claims 1 and 2.

Furthermore, the Office Action impliedly admits that Kumon fails to disclose or suggest this feature of independent claims 1 and 2 (Office Action, page 2, lines 13-15), but argues that it is "known in the optical data storage and/or retrieval art that a wobble formed by tracks on a DVD-RW has a cycle of 186 times longer than recording clock cycle and a wobble formed by tracks on a DVD+RW has a cycle of 32 times longer than recording clock cycle" (Office Action, page 2, lines 15-18). The Office Action supplies no basis or factual support for this statement. However, the very fact that Kumon teaches that the number of count values for the DVD 4.7 GB, which is the DVD+RW, is of 124, indicates that it is not known in the art that the cycle for DVD+RW is 32 times longer than the recording clock cycle, as asserted by the Office Action. Furthermore, Kumon's teaching of a count value of 124 counts for the DVD+RW, in fact, teaches away from having a count value of 32 counts, as recited in the independent claims.

For at least these reasons, Kumon not only fails to disclose or suggest the features of claims 1 and 2, but the features of claims 1 and 2 are not obvious over Kumon. Accordingly, claims 1 and 2 are patentable over Kumon, and withdrawal of the rejection of the claims under 35 USC § 103(a) is respectfully requested.

Should the Examiner determine that any further action is necessary to place this application into better form, the Examiner is encouraged to telephone the undersigned representative at the number listed below.

In the event this paper is not considered to be timely filed, the Applicants hereby petitions for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 01-2300, **referencing Attorney Dkt. No. 100341-00046.**

Respectfully submitted,

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